

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION

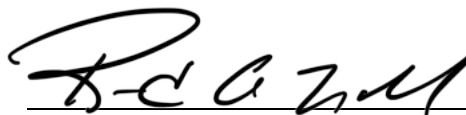
EDWARD MAJOR,	)	
	)	
Plaintiff	)	1:21-CV-00068-RAL
	)	
vs.	)	RICHARD A. LANZILLO
	)	UNITED STATES MAGISTRATE JUDGE
MICHAEL J. EDWARDS, ET AL.,	)	
	)	
Defendants	)	MEMORANDUM ORDER
	)	

The Court conducted a hearing pursuant to *Downey v. Pa. Dep't of Corr.*, 968 F.3d 299, 306 (3d Cir. 2020) and *Small v. Camden County*, 728 F.3d 265 (3d Cir. 2013) to determine whether Defendant Michael Herbig's alleged delay in providing Plaintiff Edward Major with his prescribed nitroglycerin pills constituted an incident or an urgent or emergency nature under DC-ADM 804, §1(A)(2), thereby excusing Major from complying with the three-step grievance procedure of DC-ADM 804. *See Major v. Halligan*, 2023 WL 6389038, at \*11 (W.D. Pa. Sept. 29, 2023). As stated on the record and upon consideration of the testimony, documentary evidence, and the arguments of counsel, the Court finds that the Plaintiff's need for his nitroglycerin medication presented an incident of an urgent or emergency nature. *See Downey v. Pa. Dep't of Corr.*, 968 F.3d 299, 306 (3d Cir. 2020). The Court further finds that Major gave proper notice to prison officials of the need for his medication. Based on these findings, the Court concludes that Major exhausted his administrative remedies in accordance with DC-ADM 804, §1(A)(2). Accordingly, Defendant Herbig's motion for summary judgment based on the affirmative defense of failure to exhaust administrative remedies is denied with prejudice. The

claim against Defendant Herbik shall now proceed in accordance with the Case Management Order issued on November 29, 2023. *See* ECF No. 145.

DATED this 8th day of January 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'R. A. Lanzillo', written over a horizontal line.

RICHARD A. LANZILLO  
CHIEF UNITED STATES MAGISTRATE JUDGE